## REMARKS

Claims 1-33 are pending and have been rejected. Claim 1 has been amended to incorporate the recitation of claim 33, which has been canceled. Claims 1-32 remain in the case.

Claims 1-32 are rejected under the first paragraph of Section 112. Claim 1 has been amended to incorporate the recitation of claim 33, which is not subject to this basis for rejection. Claim 1 thus recites a local administration which would include, for example, methods in which the composition is swallowed to provide protection to the esophagus, in which an enema is given to protect the intestines or in which the composition is introduced by a catheter into a site to be protected, such as the bladder. The present claims are in *prima facie* condition for allowance under Section 112.

Claims 27 and 28 are rejected under Section 102(e) based on Branch *et al.* or, in the alternative, under Section 103(a) based on Branch *et al.* in view of Nabel *et al.* Forwarded with this response is a declaration under 37 CFR §1.131, executed by Dr. Greenberger, the inventor. Dr. Greenberger attests that he had in his possession, prior to April 1993, an MnSOD plasmid as recited in the present claims. Attached to the declaration are redacted pages from Dr. Greenberger's laboratory notebook, which describe the construction of the plasmid. All of the were dated prior to April 1993, the date of Branch *et al.* Accordingly, the disclosure of Branch *et al.* has effectively been antedated.

In view of the foregoing amendments and remarks, it is believed that all claims are in condition for allowance. Reconsideration of all rejections and a notice of allowance are respectfully requested. Should there be any questions regarding this application, the examiner is invited to contact the undersigned attorney at the phone number listed below.

Respectfully submitted,

for Barbara A. McDowell
Registration No. 31,640

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Date

FOLEY & LARDNER
Washington Harbour
3000 K Street, N.W., Suite 500
Washington, D.C. 20007-5109
Telephone: (202) 672-5404
Facsimile: (202) 672-5399

**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

Please cancel claim 33 and amend claim 1 as follows:

1. (Amended) A method for protecting a subject against an agent that elicits production of a toxic species when said subject is exposed to said agent, wherein said toxic species is selected from the group consisting of a free radical, a superoxide anion, and a heavy metal cation, said method comprising the step of administering to said subject *in vivo* a pharmaceutical composition comprising

(A) a polynucleotide that encodes a protein that is transiently expressed in said subject, wherein said protein is capable of neutralizing or eliminating said toxic species; and

(B) a pharmaceutically acceptable vehicle for said polynucleotide

wherein said administering is a local administration at the site to be protected from irradiation.

33. Canceled.